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May 7, 2008

**BY HAND**

The Honorable Richard M. Berman  
United States District Court  
for the Southern District of New York  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street, Room 650  
New York, New York 10007-1312

**MEMO ENDORSED**  
P2

**Re: Bell Atlantic Tricon Leasing Corp., NCC Golf Co., NCC Key Co., and NCC  
Charlie Co., Appellants v. Delta Air Lines, Inc., et al., Appellees,  
Case No. 08-CV-02449-RMB**

Dear Judge Berman:

We represent Delta Air Lines, Inc. ("**Delta**"), an appellee in the above-captioned appeal. On May 1, 2008, Värde Investment Partners, L.P. ("**Värde**") filed its "Reply to Brief on Appeal of Appellee Delta Airlines, Inc." [Docket No. 23] (the "**Värde Brief**"). For the following reasons, Delta respectfully requests that this Court hold a pre-motion conference or, in the alternative, grant leave to submit Delta's motion to strike the Värde Brief without holding a pre-motion conference.

Delta wishes to move to strike the Värde Brief for two reasons.

First, Rule 8009 of the Federal Rules of Bankruptcy Procedure bars the filing of the Värde Brief. The Värde Brief is not one of the appellate briefs permitted under Rule 8009, was filed without leave of this Court, and was filed 3 days after the latest possible deadline for an appellant's brief.

Second, the issue addressed in Varde's late filing – namely, the question of whether stipulated loss value claims ("**SLV Claims**") should be adjusted if this Court were to overturn the Bankruptcy Court's rulings and if tax indemnity claims ("**TIA Claims**") were to be allowed – is not an issue properly before this Court. The Bankruptcy Court made clear in this case and in its rulings on prior test cases (which were incorporated by reference into the January 16, 2008 decision) that the Bankruptcy Court had made no rulings as to whether SLV Claims would have to be adjusted if TIA Claims were to be allowed. *See* August 20, 2007 Tr. [CD 24] at 143-58. In

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any event, if for some reason the Bankruptcy Court's rulings on the TIA Claims were to be reversed, the effect of that ruling on the associated SLV Claims is an issue that would properly be addressed in the Bankruptcy Court first.


Delta therefore respectfully requests that this Court hold a pre-motion conference or, in the alternative, grant leave to submit Delta's motion to strike the Värde Brief from the record without a pre-motion conference.

Respectfully submitted,



Michael E. Wiles

cc: Michael J. Edelman, Esq.  
David Weitman, Esq.  
Daniel I. Morenoff, Esq.

Värde to submit 2-3 pp	
6 Her response (with authorities)	
by 5/13/08 @ Noon.	
SO ORDERED:	
Date: 5/8/08	
Richard M. Berman, U.S.D.J.	